

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAVID W. PENNINGTON,)
NANCY J. THORNER, PAUL M.)
TAIT and JAMES P. ECONOMOS,)
On Behalf of Themselves and)
All Others Similarly Situated,)

Plaintiffs)

vs.)

ZIONSOLUTIONS LLC,)
and **BANK OF NEW YORK MELLON,**)

Defendants)

No. 11-CV-04754
Hon. Joan H. Lefkow

**PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO
DISMISS OR STRIKE ALLEGATIONS OF AMENDED COMPLAINT**

Plaintiffs, David W. Pennington, Nancy J. Thorner, Paul M. Tait and James P Economos, through counsel, in response to the motion of Defendants ZionSolutions LLC and The Bank of New York Mellon to dismiss or strike Plaintiffs' Amended Complaint (Dckt. 31), hereby rely upon and respectfully refer the Court to Plaintiffs' previously-filed memorandum in opposition to Defendants' motion to dismiss or strike Plaintiffs' original Complaint (Dckt. 20). Except for a change to certain jurisdictional allegations, the Amended Complaint (Dckt. 30) is substantively identical to Plaintiffs' original Complaint. (Dckt. 1). Defendants' present motion to dismiss or strike the Amended Complaint relies solely on Defendants' previous memoranda in support of their earlier motion to dismiss or strike Plaintiffs' original Complaint. (Dckt. 16, 21). Accordingly, Plaintiffs rely on their previously filed memorandum in opposition to Defendants'

prior submissions in support of their motion to dismiss Plaintiffs' original Complaint (Dckt. 20), in support of Plaintiffs' opposition to Defendants' current motion to dismiss or strike Plaintiffs' Amended Complaint.

For the reasons stated in Plaintiffs' memorandum in opposition to Defendants' motion to dismiss or strike Plaintiffs' original Complaint (Dckt. 20), Defendants motion to dismiss Plaintiffs' Amended Complaint under Rule 12(b)(6) or to strike under Rule 12(f) should be denied.

Respectfully submitted,

DAVID W. PENNINGTON, NANCY J.
THORNER, PAUL M. TATE, JAMES P.
ECONOMOS

By: /s/ Daniel J. Sponseller
One of their attorneys

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Dated: July 24, 2012

CERTIFICATE OF SERVICE

I, Daniel J. Sponseller, an attorney, hereby certify that I filed the foregoing document electronically through the Court's ECF filing system, which will cause a true and correct copy to be served via email on all ECF-registered counsel of record, this 24th day of July, 2012.

/s/ Daniel J. Sponseller